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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-208695

DATE: November 30, 1982

**MATTER OF: Wilfredo O. Tungol - Transportation of
Privately Owned Vehicle Purchased Overseas**

DIGEST: An employee appointed to a position overseas was not informed that he was eligible to transport his privately owned motor vehicle (POV) at Government expense from the United States to his overseas duty station. In order to perform his official duties, the employee purchased a foreign-manufactured automobile overseas. The employee may not be reimbursed for the expenses of shipping his POV to the United States since the Federal Travel Regulations authorize shipment of a POV from an overseas station to the United States only if it was shipped overseas at Government expense or is a replacement for a vehicle that was transported overseas.

Carl H. Imlay, General Counsel, Administrative Office of the United States Courts, requests a decision concerning the claim of Wilfredo O. Tungol for reimbursement of expenses incurred in shipping his privately owned motor vehicle (POV) from Saipan, Mariana Islands, to Honolulu, Hawaii. We hold that the transportation expenses may not be reimbursed, since neither 5 U.S.C. § 5727(b) nor implementing regulations in Chapter 2, Part 10 of the Federal Travel Regulations, FPMR 101-7 (September 1981)(FTR), authorize transportation of a foreign-manufactured POV from the employee's overseas post of duty to the United States under these circumstances.

In February 1980, Mr. Tungol received an appointment, not to exceed 2 years, as Law Clerk for the U.S. District Court of the Northern Mariana Islands, a territorial court of the United States. Although the Administrative Office states that Mr. Tungol was eligible at the time of his appointment to transport his POV at Government expense from his residence in Honolulu to his duty station in Saipan, agency officials failed to advise the employee of his eligibility. Consequently, the employee sold his automobile in Honolulu before traveling to Saipan.

After reporting for duty in the Marianas, Mr. Tungol learned that he would need an automobile in order to perform his official duties. Therefore, the employee purchased a Mazda in Saipan and replaced it 22 months later with a Honda, also purchased locally. On April 16, 1982, Mr. Tungol's appointment as Law Clerk terminated and the Administrative Office authorized shipment of his household goods from Saipan to Honolulu on a Government Bill of Lading (GBL). The carriers involved mistakenly assumed that the GBL covered shipment of the employee's POV, and the automobile was delivered to Honolulu in June 1982. On June 25, 1982, the vehicle was placed in storage.

The Administrative Office denied the employee's claim for reimbursement for the cost of transporting his POV from Saipan to Honolulu, interpreting the provisions of Chapter 2, Part 10 of the FTR as permitting shipment of an employee's POV from an overseas post of duty to the United States only if it was transported at Government expense to the overseas station. The agency now questions whether the transportation expenses may be allowed in view of the following circumstances: (1) use of a POV by District Court personnel in Saipan is essential to the performance of official duties; (2) Mr. Tungol was not advised at the time of his appointment that he could obtain authorization for transporting his POV at Government expense from Honolulu to Saipan; (3) the agency has determined, under the criteria listed in FTR para. 2-10.2c, that Mr. Tungol was entitled to transport his POV from Honolulu to Saipan and thus become eligible to be reimbursed charges for the automobile's return shipment; and (4) the Government would, in effect, realize monetary savings by reimbursing expenses incurred in the transportation of Mr. Tungol's POV from Saipan to Honolulu, since it was spared the cost of shipping an automobile from Honolulu to Saipan. In the event that these circumstances provide a basis for payment of the transportation expenses claimed, the Administrative Office asks us to determine whether it is required to reimburse Mr. Tungol for the cost of storing his automobile in Honolulu.

The authorization for the transportation of POVs at Government expense is derived from subsection 5727(b) of Title 5, United States Code (1976). That section

provides for shipment of an employee's POV between posts of duty outside the continental United States, when the head of the agency concerned determines that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty.

Implementing regulations in FTR para. 2-10.2, relating to the eligibility of an employee for transportation of his POV, and FTR para. 2-10.3, delineating the allowable transportation of an employee's POV, provide that:

"2-10.2. Eligibility.

"a. Official station outside the conterminous United States. Transportation of privately owned vehicles may be authorized in connection with a transfer or assignment to an official station outside of the conterminous United States, including a transfer between such stations. A privately owned vehicle transported to such a station under this part may be transported to the United States when its use is no longer required at a station outside the conterminous United States under the provisions of 2-10.3b and c.

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"2-10.3. Allowable transportation.

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"b. Return from official station after assignment. An employee whose privately owned vehicle was transported to his/her official station under the authority of this part may have that vehicle returned to the United States at Government expense not to exceed the cost for transportation to his/her actual residence at the time of appointment or assignment to duty outside the conterminous United States incident to:

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"(2) Separation after completion of an agreed period of service at an official station outside the conterminous United States to which the vehicle was transported under this part or separation prior to completion of such period if the separation is for reasons beyond his/her control and acceptable to the agency * * *."

The regulations set forth above, together with the provisions of FTR para. 2-10.3e, governing the replacement of POVs, authorize transportation of a POV from an overseas duty post to the United States only if the POV was transported at Government expense to the overseas post or was purchased as a replacement for an automobile that was shipped overseas. On this basis, we have held that an employee who does not transport an automobile to his overseas duty station, but instead purchases a foreign-made automobile overseas, may not be reimbursed the cost of transporting the vehicle to the United States, even though use of a POV at the overseas station was absolutely essential to the performance of the employee's official duties. Walter M. Mangiacotti, B-199185, September 17, 1980. See also FTR para. 2-10.2c(6), which prohibits the transportation of foreign-made POVs except under specified conditions. Since Mr. Tungol did not transport his POV at Government expense from Honolulu to Saipan, but instead purchased a foreign-made vehicle at his overseas duty post, he is not entitled to be reimbursed the cost of shipping his POV from Saipan to Honolulu.

The failure on the part of administrative officials to advise Mr. Tungol of his eligibility to transport his POV at Government expense from Honolulu to Saipan does not provide a basis for payment of the employee's claim. It is well-settled that, in the absence of a specific statutory provision, the Government is not bound by the erroneous acts or omissions of its agents or employees. See German Bank v. United States, 148 U.S. 573 (1893), and Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

Furthermore, the Administrative Office's after-the-fact determination that Mr. Tungol was eligible at the time of his appointment to have his POV shipped at

Government expense from Honolulu to Saipan has no bearing on the employee's entitlement to the transportation expenses claimed, since the employee did not, in fact, transport an automobile from Honolulu to Saipan. Although it is arguable under the circumstances of this case that the Government would, in effect, realize monetary savings by reimbursing expenses associated with one-way transportation of the employee's POV from Saipan to Honolulu, such a consideration is irrelevant to our determination since the Federal Travel Regulations have the force and effect of law, and our Office is without authority to waive or modify them in the absence of a clear showing of inconsistency with the parent statute.

Since we have determined that Mr. Tungol is not entitled to reimbursement for the cost of shipping his POV from Saipan to Honolulu, we need not address the question whether the Administrative Office is required to pay automobile storage charges incurred by the employee. See FTR para. 2-10.5a(1). In any event, we note that the provisions of 5 U.S.C. § 5726(a) (1976), and implementing regulations in FTR para. 2-10.5, prohibit the approval of any claim for automobile storage charges other than one arising in an emergency situation. See Joseph M. Posid, B-199517, December 24, 1980.

In accordance with the above, the employee's claim for the cost of transporting his POV from his overseas duty station to the United States is denied.

for Milton J. Fowler
Comptroller General
of the United States